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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

STEVEN MATZA,

Plaintiff,

v.

COUNTRYWIDE HOME LOANS,
INC., et al.,

Defendants.

2:09-CV-217 JCM (CWH)

ORDER

Presently before the court is defendants Countrywide Home Loans, Inc., et. al.'s motion to dismiss and expunge *lis pendens*. (Doc. #29). Plaintiff Steven Matza failed to file an opposition.

The property at issue in this case is located at 9948 Central Valley Ave., Las Vegas, Nevada. (Doc. #1). Plaintiff originally filed this case on February 3, 2009. (Doc. #1). The court dismissed the complaint on April 28, 2009. (Doc. #17). Plaintiff appealed the court's order to the Ninth Circuit. (Doc. #19).

On June 21, 2011, the Ninth Circuit reversed and remanded. (Doc. #24). The Ninth Circuit held that the court erroneously dismissed plaintiff's TILA claim on timeliness grounds. (Doc. #24). The Ninth Circuit further found that the court abused its discretion by dismissing the complaint without granting leave to amend. (Doc. #24). Thus, the Ninth Circuit instructed this court, on remand, to "give Matza an opportunity to amend the complaint, including an opportunity to state an alternative theory for recovery." (Doc. #24, internal citations and quotations omitted).

1 It has been six months since the Ninth Circuit issued its decision. Plaintiff still has not filed
2 an amended complaint. Defendants now move to dismiss the complaint for failure to state a claim
3 upon which relief can be granted. (Doc. #29). Defendants further assert that plaintiff's TILA claim
4 can be dismissed for reasons other than timeliness. (Doc. #29).

5 Pursuant to Nevada Local Rule 7-2(d), "the failure of an opposing party to file points and
6 authorities in response to any motion shall constitute a consent to the granting of the motion."
7 However, the court will not automatically grant every unopposed motion. In *Ghazali v. Moran*, 46
8 F.3d 52, 53 (9th Cir. 1995), the Ninth Circuit held that the court had to weigh the following factors
9 before dismissing the action: (1) the public's interest in expeditious resolution of litigation; (2) the
10 court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy
11 favoring disposition of cases of their merits; and (5) the availability of less drastic sanctions.

12 In light of both plaintiff's six-month delay in filing an amended complaint and plaintiff's
13 failure to oppose defendant's motion to dismiss and expunge *lis pendens*, the court finds that the
14 *Ghazali* factors weigh in favor of dismissing the action. *Ghazali*, 46 F.3d at 53; *see also* LR 7-2(d).

15 Accordingly,

16 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that defendants Countrywide
17 Home Loans, Inc., et. al.'s motion to dismiss and expunge *lis pendens* (doc. #29) be, and the same
18 hereby is, GRANTED.

19 DATED this 14th day of December, 2011.

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22 UNITED STATES DISTRICT JUDGE